



October 17, 2023

**VIA ECF**

Honorable Katharine S. Hayden  
United States District Court  
District of New Jersey  
50 Walnut Street  
Newark, New Jersey 07101

**Re: *Kyle-Label v. Selective Service System et al.*,  
Case No. 2:15-cv-05193-KSH-JSA**

Dear Judge Hayden:

Plaintiff in the above-entitled matter respectfully submits this letter to advise the Court of the status of certain matters related to this litigation. Previously, Magistrate Judge Allen asked the parties to submit their positions on whether this matter should be administratively stayed while Congress considered amending the Military Selective Service Act (“MSSA”), which currently requires only men to register for the military draft. The parties complied with Judge Allen’s request. *See* ECF Nos. 138–140. Because the Court did not administratively stay the case and a significant amount of time has passed since the parties’ last update, Plaintiff writes to update the Court on the status of Congressional activity on this issue and, after consulting with Defendants, incorporates Defendants’ position below.

Since the parties’ last conference with the Court in 2021, Congress has twice considered amending the draft registration requirements of the MSSA. First, in 2022, lawmakers in both chambers included a provision expanding draft registration requirements to women as part of the 2022 National Defense Authorization Act (“NDAA”). (H.R. 4350 Sec. 513; S. 2792 Sec. 511). These provisions were removed from the final bill and were not enacted. In 2023, the House-passed version of the 2023 NDAA did not include provisions related to the draft. (H.R. 7900). The Senate’s version of the bill featured an amendment requiring women to register for the draft (S. 4543, Sec. 521), but this amendment was not part of the enacted legislation.

Congress is currently considering the issue as part of the 2024 NDAA. (H.R. 2670; S. 2226). Only the Senate’s version of the 2024 NDAA includes an amendment concerning the inclusion of women in the draft. (S. Amdt.161, Cong. Rec. daily ed., July 12, 2023 Pages S2372-S2373, SEPARATE VOTE REQUIREMENT FOR INDUCTION OF MEN AND WOMEN).

**Plaintiff’s Position.** For all of the reasons outlined in Plaintiff’s prior letter on this issue, *see* ECF No. 140, in addition to the additional unsuccessful efforts to amend the MSSA since the Government’s last request that the Court stay this matter in light of Congressional activity, Plaintiff requests that the Court render a decision on Plaintiff’s motion for class certification and permit her to proceed with litigating this matter on the merits. The proposed legislation is simply one of nearly ten attempts to amend the draft law since 2003, and waiting for Congress to act could result



in an indefinite stay of a case that has already been pending since 2015. The Court should therefore render a decision on Plaintiff's motion for class certification, which has been pending since 2019.

**Defendants' Position.** As noted by Plaintiff, Congress considered the issue of draft registration in the FY22 and FY23 NDAA's, and is currently considering this issue as part of the FY24 NDAA. See, e.g., FY2023 NDAA (S. 4543, 117th Cong. § 521), FY2022 NDAA (H.R. 4350, 117th Cong. §513 and S. 2792, 117th Cong. §511); FY2023 NDAA: Selective Service and Draft Registration, CRS Insight, Updated January 12, 2023, available at <http://crsreports.congress.gov/product/pdf/IN/IN11973>; S.Amdt.161, Cong. Rec. daily ed., July 12, 2023 Pages S2372-S2373, SEPARATE VOTE REQUIREMENT FOR INDUCTION OF MEN AND WOMEN. Defendant's position is that the Court should defer to the coordinate branches on this issue. As to the pending motion for class certification, Defendant maintains that the motion should be denied for the reasons stated in Defendant's opposition to that motion filed in 2019, ECF No. 116. Moreover, Defendant asserts that the Supreme Court's recent decision in *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021), lends further support to their opposition to class certification and Defendant is prepared to file supplement briefing to address this issue if the Court desires.

Respectfully,

/s/ Sabina Mariella  
Sabina Mariella